



**CITY OF SUNNYVALE
REPORT
Planning Commission**

February 23, 2004

SUBJECT: **2003-0837 – Brian Smithson** [Appellant] - Application on a 5,674 square foot site located at **1104 Burntwood Court** in an R-0 (Low Density Residential) Zoning District (APN: 104-25-074)

Motion Appeal of a decision by the Director of Community Development approving a Miscellaneous Plan Permit to allow a 7'2" high accessory utility building in the rear yard.

REPORT IN BRIEF

Existing Site Single Family Home

Conditions

Surrounding Land Uses

North Single-Family Residential

South Single-Family Residential

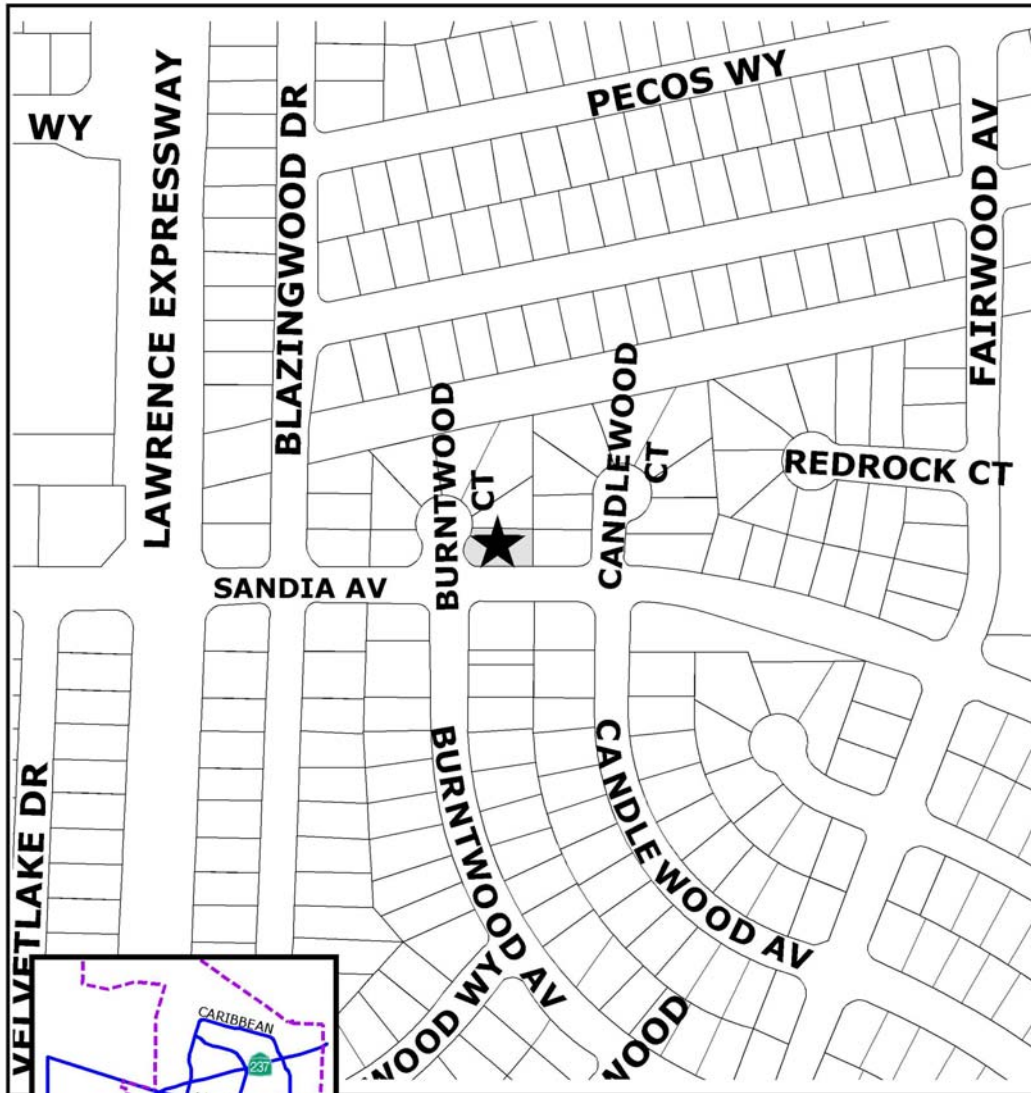
East Single-Family Residential

West Single-Family Residential

Issues Rear Setback of Accessory Utility Structure

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the decision of the Director of Community Development to approve the accessory utility building.



1104 Burntwood Court Miscellaneous Plan Permit



PROJECT DATA TABLE

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	---
Lot Size (s.f.)	5,760	Same	No min.
Gross Floor Area (s.f.)	2,037	2,131	No max.
Lot Coverage (%)	35%	37%	40% max.
Accessory Building Height (ft.)	9'2	9'2"	7'2 max. (by MPP)
Setbacks of Accessory Building			
• Reducible Front Yard (Sandia Ave)	N/A	14	9 min.
• Rear	N/A	2	2 min. (7'2" shed by MPP)
Parking			
• Total No. of Spaces	4	Same	4 min.
• Covered Spaces	2	Same	2 min.

ANALYSIS**Background**

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2003-0837	Current MPP application to allow a 9'2", 96 square foot accessory utility structure located two feet from the rear property line	Approved with condition to reduce height consistent with previous approval of 7'2".	11/11/03

File Number	Brief Description	Hearing/Decision	Date
2002-0110	MPP to allow a 7'2", 96 square foot accessory utility structure located two feet from the rear property line.	Miscellaneous Plan Permit / Approved	2/19/02
1998-0254	Plan Modification to Design Review to allow an A/C unit on the second floor	Miscellaneous Plan Permit / Approved	4/10/98
1997-0004	Design Review to allow a new two-story single family home and MPP for a seven foot high fence	Miscellaneous Plan Permit & Design Review / Approved	1/15/97

Description of Proposed Project

The application is to allow a structure that has already been built. A Miscellaneous Plan Permit (MPP) was approved for a 7'2", 96 square foot accessory utility building located 2 feet from the rear property line in February of 2002. An MPP is required if the shed is located closer than 10 ft. to the rear property line or the total lot coverage limitation of 40% is exceeded. No building permit is required for accessory buildings under 120 square feet. A resident in the neighborhood informed the Neighborhood Preservation Division of an illegally built structure. Site visits to the property and confirmation from the property owner indicated that the structure was built 2 feet higher (9'2" height) than what had previously been approved.

A second MPP was filed in an effort to allow a taller structure. Consistent with policy for accessory utility buildings proposed to be located within 10 feet in the rear property line, each foot in height over 6'6", should allow an additional 3 ft. setback from the rear property line. The MPP was approved at 7'2", consistent with what had been originally approved. The applicant has appealed this decision and requests approval to allow the 9'2" foot high structure as it is currently built on the site.

Environmental Review

A Class 11 Categorical Exemption for accessory structures relieves this project from California Environmental Quality Act provisions and City Guidelines.

Appeal of a Miscellaneous Plan Permit

Use: The proposed use is to allow an accessory utility building within ten feet of the rear property line. The original application was for a 7'2" tall shed and was approved at a setback of 2 feet from the rear property line. The applicant has appealed the decision and proposes a 9'2 high building at two feet from the property line.

Site Layout: The subject site is a corner lot located on Burntwood Court and Sandia Avenue. The accessory building is located two feet from the rear property line and fourteen feet from the reducible front yard property line. The shed is partially visible behind an existing seven foot fence from the neighboring property and Sandia Avenue.

Architecture: The home was designed and built in 1997 with a unique modern style of architecture. The applicant has attempted to mimic this style by utilizing similar elements and paint colors for the accessory structure. (See the "Elevations" on Page 3 of Attachment #3 for more detail. Photos are also located in Attachment #4.)

The following Guidelines were considered in the analysis of the project architecture.

Design Policy or Guideline (Architecture)	Comments
<i>Single Family Home Design Techniques 3.10 Accessory Structures B. Accessory Structures should use the same wall, roof, and trim materials as the main structure</i>	The shed utilizes a similar style of architecture as the home. The materials and form of the roof resemble elements of the main structure.

Landscaping: The site complies with landscaping requirements for properties located within the rear yard. The shed results in a slight lost of the existing landscaping on the site.

Parking/Circulation: The site meets parking standards for single family homes located in the R-0 Zoning District with covered parking for two vehicles and two uncovered spaces. No modifications are proposed to the existing driveway or parking of the site at this time.

Easements/Undergrounding: The shed is located within an existing five foot utility easement located at the rear of the property. The department of Public Works requests that the shed have the ability to be detached and relocated if temporary access to the rear yard is needed. As a Condition of Approval, the shed shall be modified to accommodate this request.

Compliance with Development Standards

The approved project meets all standard development requirements for accessory structures in the rear yard; however, the shed was not built according to the originally approved Miscellaneous Plan Permit. In response to a complaint, a second Miscellaneous Plan Permit was applied for a taller structure and subsequently approved at the original height of 7'2".

Expected Impact on the Surroundings

The shed is visible from adjacent properties and Sandia Avenue. A reduced height of 7'2" would allow the existing fence to mitigate much of the visual impact of the structure from public view.

Comment on Appeal

As noted in the "Description of the Project" section of the report, the approval of the Miscellaneous Plan Permit (MPP) is consistent with policy for accessory utility buildings that are proposed to be located within 10 feet in the rear property line. The MPP allows for each foot in height of the building over 6'6", there should be an additional 3 ft. setback from the rear property line. The permit was approved at 7'2", consistent with what had been originally approved. The applicant has appealed this decision and requests approval to allow the 9'2" foot high structure as it is currently built on the site. A letter submitted by the applicant, regarding the appeal, states that the shed should remain. The applicant further points out that the building is consistent with many other accessory structures that are located in the neighborhood (See Attachment #5). Staff recognizes that some of these sheds may be considered legal non-conforming, as they were built prior to current requirements for accessory buildings and can only consider each situation on a case by case basis.

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial of this Appeal because the Findings (Attachment #1) for this Miscellaneous Plan Permit can be made; however, if the Planning Commission is able to make the required Findings permitting a taller structure, staff is recommending the Conditions of Approval in Attachment #2.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

An adjacent neighbor has contacted staff and submitted a letter opposing the additional requested height (See Attachment #6). The neighbor cites concerns with the height and close proximity to the shared fence along the rear property line.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• Mailed to the adjacent property owners of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Alternatives

1. Deny the appeal of the Miscellaneous Plan Permit and uphold the decision of the Director of Community Development.
2. Grant the appeal of the Miscellaneous Plan Permit with the recommended conditions of approval.
3. Grant the appeal of the Miscellaneous Plan Permit with modified conditions of approval.

Recommendation

Recommend Alternative 1

Prepared by:

Ryan Kuchenig
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Approved by:

Trudi Ryan
Planning Officer

Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Original Site and Architectural Plans and project description.
4. Photos of the subject site.
5. Letter from the Appellant
6. Letters from other interested parties

Findings – Miscellaneous Plan Permit

The Director or Planning Commission may approve any Miscellaneous Plan Permits, as it finds desirable in the public interest, upon finding that the project will either:

1. Attain the objectives and purposes of the General Plan of the City of Sunnyvale.

The accessory structure enables the applicant to utilize and additional area for storage on the property. The shed is designed to match the unique architecture of the house and Eichler style of homes in the neighborhood.

2. Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of adjacent properties.

The accessory structure is located a sufficient distance of 14 feet from the reducible front yard. At the approved height of 7'2" the shed does not have a negative visual impact to the surrounding neighborhood.

Recommended Conditions of Approval – Miscellaneous Plan Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval for this Permit.

1. The Miscellaneous Plan Permit shall expire in one year as measured from the date of approval by the final review authority at a public hearing if not exercised.
2. This project must be in substantial conformance with the approved plans. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by the Director of Community Development.
3. The structure shall be modified to have the ability to be detached and moved if there is a need to access the easement on the property.

Accessory Building project overview

Brian and Bonnie Smithson
1104 Burntwood Court
Sunnyvale, CA 94089-2310

2002-02-04

Purpose

We wish to construct an accessory building at the rear of our property, primarily for storing garden and home maintenance tools and materials. Among the materials are small quantities of household flammables (paint, varnish, and gasoline for gas-powered tools) that we want to store away from the home and attached garage.

Design Considerations

Our home has an unusual style [see Photos], and a typical shed would be architecturally inconsistent. We located an architect-designed plan from the 1950's that we have modified slightly for our purposes. Details about that are provided below.

Original Design Source

Finding an appropriate design was challenging, fortunately, I located a design from the architectural firm of Anshen &. This design was commissioned in 1957 by the Douglas Fir Plywood Association to promote the use of plywood products.

Our Modified Design***Reduced roof overhangs***

The original design had extensive roof overhangs, and we did not have an adequate amount of open space on the property to accommodate such overhangs. We have reduced the front and rear overhangs by 2' each. [see "Side Elevation"].

Changes to interior layout and addition of exterior door

The original design had three 4'x8' units for storage. We modified the interior layout to have units that are 4'x8', 2'x8', and 6'x8' [see "Plan"]. The main purpose of these modifications was to provide an 8' deep unit with a door at the end (for which we also had to add an

exterior door [see "Plan" and "Front Elevation"] so that we can store home maintenance materials that are 8' in length.

Roof and floor construction

We plan to apply a roofing compound coating on top of the plywood. We have already poured a concrete floor with holes for footing the shed structure; the floor covers the entire 12'x8' footprint of the shed.

Colors and finishing details

Paint

The outside panels and battens will be painted in a light gray color to match the mineral siding material on the house.

Rafters, drip strips, and window mullions will be varnished to approximate the fascia and beams of the house.

Eaves will be painted dark gray to match the eaves on the house.

Other finishing details

The roof will be edged with galvanized trim to match the house.

The original design allowed for either screening or window glass; we plan to use window glass or Plexiglas. Because of that, we will provide appropriate ventilation openings near the top of each storage unit for exhausting heat and ensuring that flammable fumes cannot accumulate.

Code compliance

As this design is greater than 6'6" tall at its peak, we are compelled to comply with all setback requirements for our R-0 neighborhood. See attached Detail A, Detail B, and Detail C, for dimensions and diagrams related to the location of the proposed structure and existing structures and property lines related to this project.

40% Lot Coverage

Our proposal complies with the 40% lot coverage limit:

1781+256 (existing structures)
+ 96 (new structure)
/ 5760 (lot total)
= 37% (coverage)

25% Rear Yard Coverage

Our proposal complies with the 25% rear yard coverage limit:

190 (existing approved encroachment)
+ 96 (new structure)
/ 1200 (required area)
= 24% (coverage)

10' from Rear Property Line

Our proposal is to place the shed 2' from the rear property line. The height of the accessory building is 7'2". Sunnyvale policy is that an accessory building greater than 6'6" in height must be set back from the rear property line 3' for every 1' in height in excess of 6'6". As our planned structure is 8" (2/3 of 1') in excess of 6'6", then the setback should be 2' (2/3 of 3').

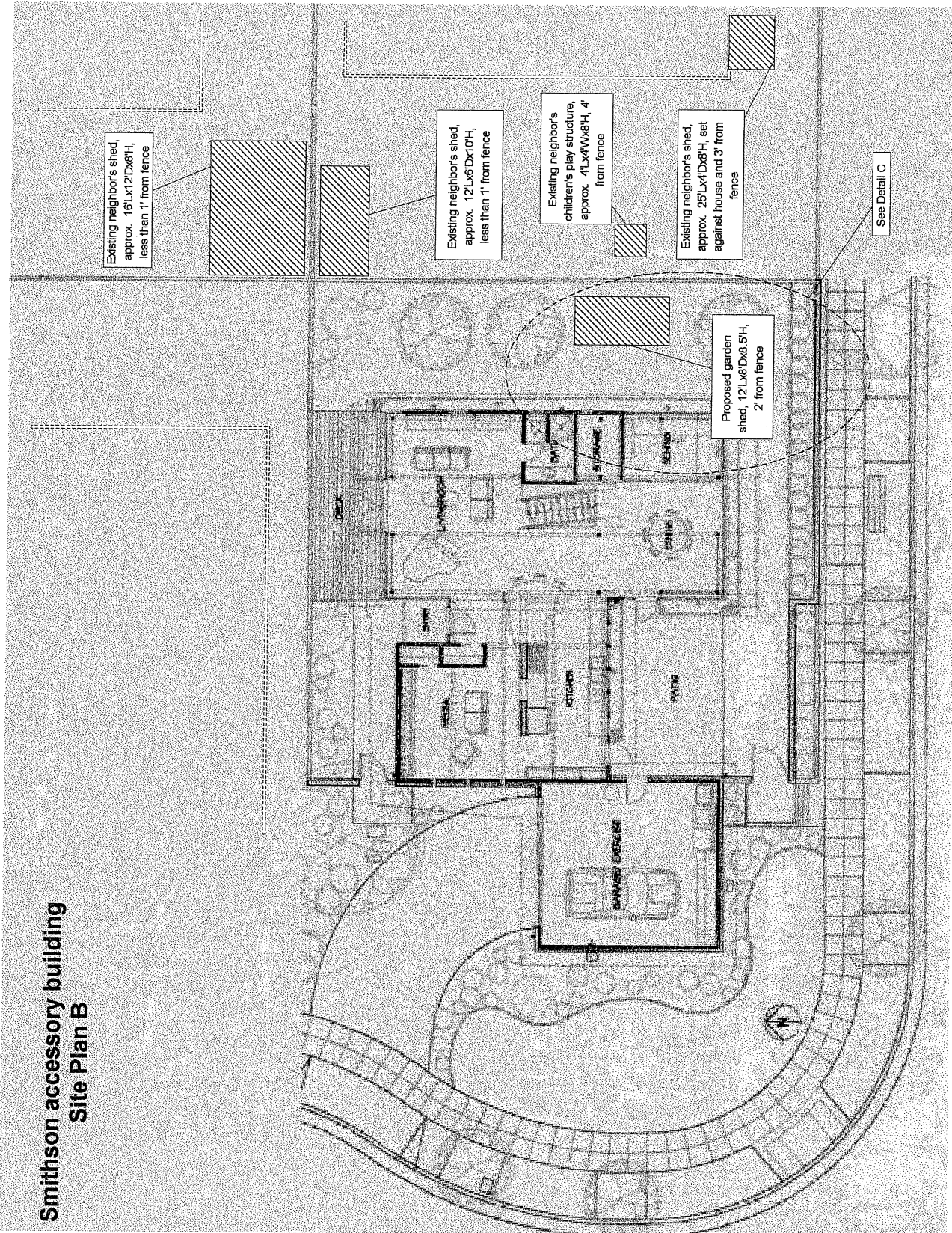
4' from Side Property Line

Our proposal complies with this limit, as it is 14' from the side property line (along Sandia Ave.) and even further from the other side property line.

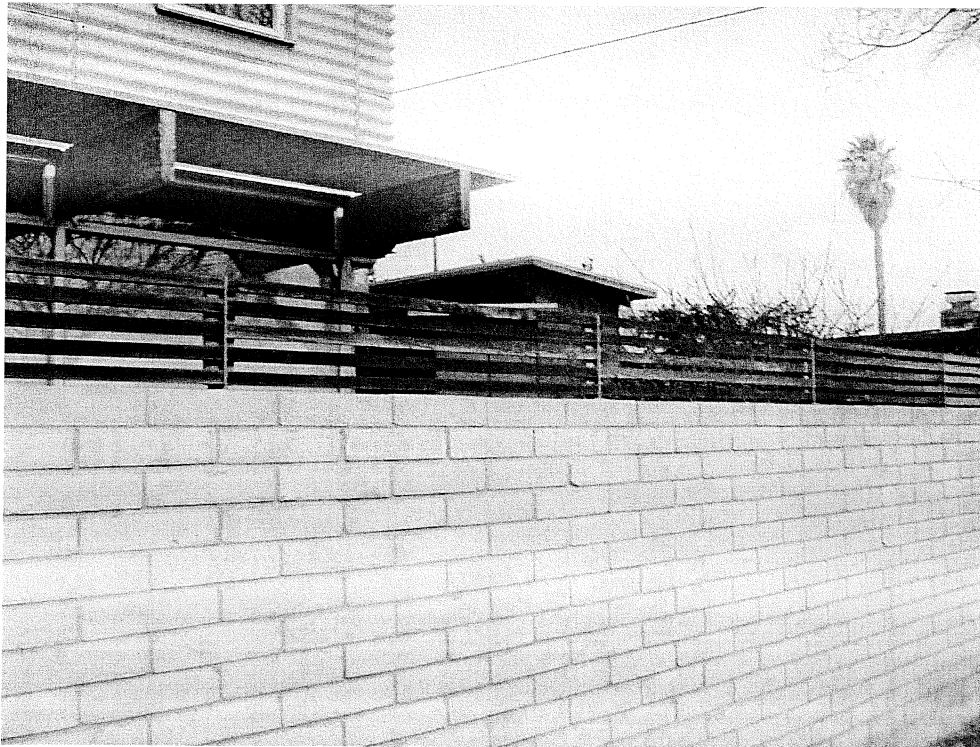
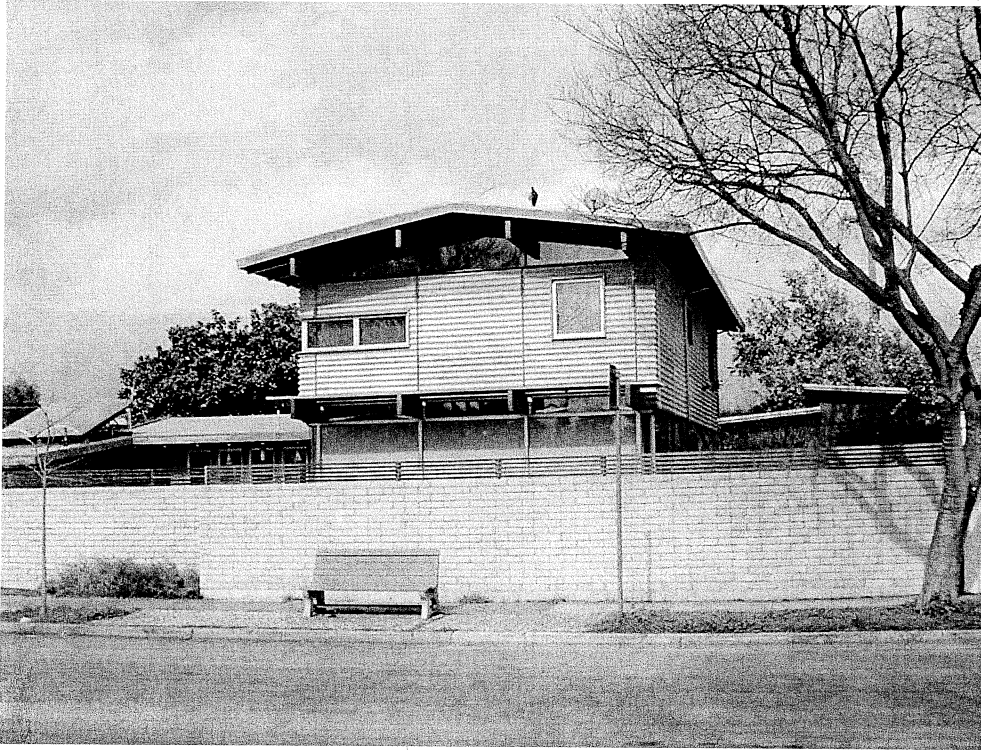
15' Height

Our proposal complies with this limit, as it is less than 9' tall at its peak.

Smithson accessory building Site Plan B



1104 Burntwood - MPP - Accessory Utility Building



1104 Burntwood Court
Sunnyvale, CA 94089

February 16th, 2004

City of Sunnyvale
Dept. of Community Development
456 West Olive Avenue
P.O. Box 3707
Sunnyvale, CA 94088-3707

Attn: Ryan Kuchenig (via email)

Re: 2003-0837 Accessory Utility Structure at 1104 Burntwood Court

I would like to present the following clarification to the attendees of the hearing on this matter.

The overall height of this structure is well within the 15' limit for accessory utility structures. It is not adjacent to the longest frontage street, and so its present location complies with requirements that apply to a corner lot. The structure's size and location comply with lot coverage limitations both for the rear yard area and for total lot area. Therefore, the only issue regarding this structure is the setback distance from the rear property line.

The structure is 2' from the rear property line. At that point, the structure height is approximately 8'6". The 9'2" peak of the structure is approximately 7' from the rear property line. City policy is that there should be 3' of setback for each foot in height over 6'6", which would place the shed 4'-6' farther from the rear property line than its current location. Unfortunately, placing the structure in that location is not possible given the dimensions of the rear yard of this lot (see the diagram on page 2).

We have asked permission to locate this structure as shown because to require otherwise would deprive me of privileges enjoyed by others in the neighborhood, and in particular, by the property owner of the lot that shares our rear property line. That lot has three accessory utility structures, two of which appear to violate the City policy for height/setback requirement that is the focus of this hearing, and the third structure appears to violate two other accessory utility structure requirements (see the diagram on page 2). I am not aware of any permits or hearings regarding those structures.

In short, we are simply asking for the same privileges and consideration that has been given to others in our neighborhood.

Sincerely,
Brian and Bonnie Smithson

Ryan Kuchenig - Re file #2003-0837 (APN: 104-25-074), appellant Brian Smithson

From: luat nguyen
To: <rkuchenig@ci.sunnyvale.ca.us>
Date: 2/14/2004 12:39 PM
Subject: Re file #2003-0837 (APN: 104-25-074), appellant Brian Smithson

Re file #2003-0837 (APN: 104-25-074), appellant Brian Smithson

1129 Candlewood Ct.
Sunnyvale, CA 94089
February 14, 2004

Project Planner
City of Sunnyvale

Dear Ryan,

My husband and I are pleased to see that the compliance issue of our neighbor's shed is going through the proper channels with the city.

It was upsetting to see that our backyard neighbor built a wide shed near our back fence. It rises far above our 7-foot back fence. It makes our back yard feel walled in. We can no longer enjoy the expansive feeling of being able to see beyond the fence.

It is further upsetting because this clearly violates city code. We try our best to follow the guidelines set by the city planning department. We understand it is in the best interest of the neighborhood. My family and I very much enjoy our home in Lakewood Village and are working to make this a better place to live.

Please help us in bringing our neighbor's shed into compliance with the city codes. We hope that this issue can be resolved through a fair process.

Sincerely,
Lynette Nguyen

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<http://taxes.yahoo.com/filing.html>